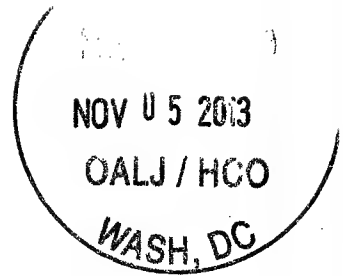


UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE



In re:)	Docket No. 14-0024
)	
Plumpton Park)	
Zoological Gardens, Inc.,)	
)	
Respondent)	Complaint

There is reason to believe that the respondent named herein has willfully violated the Animal Welfare Act, as amended (7 U.S.C. § 2131 et seq.), hereinafter referred to as the Act, and the regulations and standards (9 C.F.R. § 1.1 et seq.) issued pursuant to the Act, and, therefore, the Administrator of the Animal and Plant Health Inspection Service ("APHIS") issues this complaint alleging the following:

I

A. Plumpton Park Zoological Gardens, Inc., is a Maryland corporation hereinafter referred to as the respondent whose address is 1416 Telegraph Road, Rising Sun, Maryland 21911.

B. The respondent, at all times material hereto, was operating as an exhibitor as defined in the Act and the regulations.

C. The respondent's Animal Welfare license number is 51-C-0021. When the respondent was licensed, it received a copy of

the regulations and the standards issued pursuant to the Act and agreed in writing to comply with them.

II

A. On or about May 19, 2010, during public exhibitions, a sufficient distance or barrier was not maintained between the animal and the general viewing public to assure the safety of the animal and viewing public (9 C.F.R. § 2.131(c)(1)).

B. On or about May 19, 2010, APHIS inspected respondent's premises and found the following willful violations of section 2.100(a) of the regulations (9 C.F.R. § 2.100(a)) and the standards specified below:

1. The facility was not constructed of such material and such strength and was not maintained in good repair to protect the animals from injury and contain the animals (9 C.F.R. § 3.125(a)).

III

A. On or about June 28, 2010, APHIS inspected respondent's premises and found the following willful violations of section 2.100(a) of the regulations (9 C.F.R. § 2.100(a)) and the standards specified below:

1. The fixed public exhibits housing nonhuman primates did not have a barrier between the primary enclosure and the public

that restricted physical contact between the public and the nonhuman primates (9 C.F.R. § 3.78(e)); and

2. The facility was not constructed of such material and such strength as appropriate for the animals involved and was not maintained in good repair to protect the animals from injury and contain the animals (9 C.F.R. 3.125(a)).

IV

A. From April 14 to June 30, 2010 the respondent failed to maintain programs of adequate veterinary care under the supervision and assistance of a doctor of veterinary medicine, in willful violation of section 2.40(b)(2) of the regulations (9 C.F.R. § 2.40(b)(2)).

B. From April 14 to June 30, 2010, the respondent willfully violated section 2.100(a) of the regulations (9 C.F.R. § 2.100(a)) and the standards specified below:

1. Animals were not provided with wholesome, palatable food that was free of contamination and of sufficient quantity and nutritive value to maintain the animal in good health (9 C.F.R. § 3.129(a)).

V

A. On or about July 27, 2010, APHIS inspected respondent's premises and found that the respondent failed to maintain programs of adequate veterinary care under the supervision and assistance of a doctor of veterinary medicine, in willful violation of section 2.40(b)(2) of the regulations (9 C.F.R. § 2.40(b)(2)).

B. On or about July 27, 2010, the respondent did not utilize a sufficient number of adequately trained employees under a supervisor who has a background in animal care to maintain the professionally acceptable level of husbandry practices as set forth in the regulations in willful violation of 9 C.F.R. § 3.132.

C. On or about July 27, 2010, the respondent failed to have enough employees to carry out the level of husbandry practices and care for nonhuman primates as provided for in 9 C.F.R. Part 3 Standards Subpart D and failed to have employees supervised by an individual who has knowledge, background, and experience in proper husbandry and care of nonhuman primates in willful violation of 9 C.F.R. § 3.85.

D. On or about July 27, 2010, the respondent did not have a sufficient number of employees to carry out the required level of

husbandry practices and care for rabbits under the supervision of an individual who has knowledge, background, and experience in proper husbandry and care of rabbits in willful violation of 9 C.F.R. § 3.57.

E. On or about July 27, 2010, APHIS inspected respondent's premises and found the following willful violations of section 2.100(a) of the regulations (9 C.F.R. § 2.100(a)) and the standards specified below:

1. Sufficient potable water was not provided on a daily basis (9 C.F.R. § 3.55);
2. Primary enclosures for nonhuman primates were not designed and constructed of suitable materials so that they were structurally sound for the species of nonhuman primates contained in them and maintained in good repair (9 C.F.R. § 3.80(a)(1));
3. The facility was not constructed of such material and of such strength as appropriate for the animals in the facility and was not maintained in good repair to protect the animals from injury and contain the animals (9 C.F.R. § 3.125(a)); and
4. Animals were not provided with wholesome, palatable food that was free of contamination and of sufficient quantity and nutritive value to maintain the animal in good health (9 C.F.R. § 3.129(a)).

VI

A. On or about August 4, 2010, APHIS inspected respondent's premises and found the following willful violations of section 2.100(a) of the regulations (9 C.F.R. § 2.100(a)) and the standards specified below:

1. The facility was not constructed of such material and of such strength as appropriate for the animals in the facility and was not maintained in good repair to protect the animals from injury and contain the animals (9 C.F.R. § 3.125(a)).

VII

A. On or about September 14, 2010, APHIS inspected respondent's premises and found the following willful violations of section 2.100(a) of the regulations (9 C.F.R. § 2.100(a)) and the standards specified below:

1. The facility was not constructed of such material and of such strength as appropriate for the animals in the facility and was not maintained in good repair to protect the animals from injury and contain the animals (9 C.F.R. § 3.125(a)).

VIII

A. On or about October 1, 2010, APHIS inspected respondent's premises and found the following willful violations

of section 2.100(a) of the regulations (9 C.F.R. § 2.100(a)) and the standards specified below:

1. Animals in primary enclosures were not maintained in compatible groups (9 C.F.R. § 3.133).

IX

A. On or about October 15, 2010, APHIS inspected respondent's premises and found the following willful violations of section 2.100(a) of the regulations (9 C.F.R. § 2.100(a)) and the standards specified below:

1. The facility was not constructed of such material and of such strength as appropriate for the animals in the facility and was not maintained in good repair to protect the animals from injury and contain the animals (9 C.F.R. § 3.125(a)).

X

A. On or about November 6, 2010, APHIS inspected respondent's premises and found the following willful violations of section 2.100(a) of the regulations (9 C.F.R. § 2.100(a)) and the standards specified below:

1. The facility was not constructed of such material and of such strength as appropriate for the animals in the facility and was not maintained in good repair to protect the animals from injury and contain the animals (9 C.F.R. § 3.125(a)).

XI

A. On or about January 10, 2011, APHIS inspected respondent's premises and found the following willful violations of section 2.100(a) of the regulations (9 C.F.R. § 2.100(a)) and the standards specified below:

1. The facility was not constructed of such material and of such strength as appropriate for the animals in the facility and was not maintained in good repair to protect the animals from injury and contain the animals (9 C.F.R. § 3.125(a)).

XII

A. On or about January 24, 2011, APHIS inspected respondent's premises and found the following willful violations of section 2.100(a) of the regulations (9 C.F.R. § 2.100(a)) and the standards specified below:

1. Animals in primary enclosures were not maintained in compatible groups (9 C.F.R. § 3.133).

XIII

A. On or about February 7, 2011, APHIS inspected respondent's premises and found the following willful violations of section 2.100(a) of the regulations (9 C.F.R. § 2.100(a)) and the standards specified below:

1. The facility was not constructed of such material and of such strength as appropriate for the animals in the facility and was not maintained in good repair to protect the animals from injury and contain the animals (9 C.F.R. § 3.125(a)).

XIV

A. On or about May 10, 2011, APHIS inspected respondent's premises and found the following willful violations of section 2.100(a) of the regulations (9 C.F.R. § 2.100(a)) and the standards specified below:

1. Primary enclosures for nonhuman primates were not designed and constructed of suitable materials so that they were structurally sound for the species of nonhuman primates contained in them (9 C.F.R. § 3.80(a)(1)).

XV

A. On or about September 7, 2011, APHIS inspected respondent's premises and found the following willful violations of section 2.100(a) of the regulations (9 C.F.R. § 2.100(a)) and the standards specified below:

1. The facility was not constructed of such material and of such strength as appropriate for the animals in the facility and was not maintained in good repair to protect the animals from injury and contain the animals (9 C.F.R. § 3.125(a));

2. Supplies of food and bedding were not stored adequately in order to protect such supplies against deterioration, molding, or contamination by vermin (9 C.F.R. § 3.125(c));

3. Natural or artificial shelter appropriate to the local climatic conditions for the species concerned was not provided for all animals kept outdoors to afford them protection and to prevent discomfort to such animals (9 C.F.R. § 3.127(b));

4. Animals were not provided with wholesome, palatable food that was free of contamination and of sufficient quantity and nutritive value to maintain the animal in good health (9 C.F.R. § 3.129(a));

5. Excreta was not removed from primary enclosures as often as necessary to prevent contamination of the animals contained in them and minimize disease hazards since the enclosures were excessively soiled and stained (9 C.F.R. § 3.131(a));

6. A safe and effective program was not established and maintained for the control of insects, ectoparasites, and avian and mammalian pests (9 C.F.R. § 3.131(a)); and

7. The respondent did not utilize a sufficient number of adequately trained employees under a supervisor who has a background in animal care to maintain the professionally

acceptable level of husbandry practices as set forth in the regulations (9 C.F.R. § 3.132).

XVI

A. On or about July 26, 2011, APHIS inspected respondent's premises and found that the respondent failed to maintain programs of disease control and prevention, euthanasia, and adequate veterinary care under the supervision and assistance of a doctor of veterinary medicine and failed to provide veterinary care to animals in need of care, in willful violation of section 2.40 of the regulations (9 C.F.R. § 2.40).

B. On or about July 26, 2011, APHIS inspected respondent's premises and found the following willful violations of section 2.100(a) of the regulations (9 C.F.R. § 2.100(a)) and the standards specified below:

1. During public exhibitions, a sufficient distance or barrier was not maintained between the animal and the general viewing public to assure the safety of the animal and viewing public (9 C.F.R. § 2.131(c)(1));

2. The facility was not constructed of such material and of such strength as appropriate for the animals involved and was not maintained in good repair to protect the animals from injury and contain the animals (9 C.F.R. § 3.125(a));

3. The perimeter fence was not of sufficient height to keep animals and unauthorized persons out since the perimeter fence in sections was less than 8 feet high (9 C.F.R. § 3.127(d));

4. Food receptacles were not kept clean and sanitary at all times (9 C.F.R. § 3.129(b)); and

5. The premises (buildings and grounds) were not kept clean and in good repair and free of accumulations of trash (9 C.F.R. § 3.131(c)).

XVII

A. On or about January 5, 2012, APHIS inspected respondent's premises and found the following willful violations of section 2.100(a) of the regulations (9 C.F.R. § 2.100(a)) and the standards specified below:

1. The facility was not constructed of such material and of such strength as appropriate for the animals in the facility and was not maintained in good repair to protect the animals from injury and contain the animals (9 C.F.R. § 3.125(a)).

XVIII

A. On or about April 25, 2012, APHIS inspected respondent's premises and found the following willful violations of section 2.100(a) of the regulations (9 C.F.R. § 2.100(a)) and the standards specified below:

1. The facility was not constructed of such material and of such strength as appropriate for the animals in the facility and was not maintained in good repair to protect the animals from injury and contain the animals (9 C.F.R. § 3.125(a));

2. Primary enclosures for nonhuman primates were not designed and constructed of suitable materials so that they were structurally sound for the species of nonhuman primates contained in them and maintained in good repair (9 C.F.R. § 3.80(a)(1));

3. An effective program for the control of insects, external parasites affecting nonhuman primates, and birds and mammals that are pests, was not established and maintained so as to promote the health and wellbeing of the animals and reduce contamination by pests in animal areas (9 C.F.R. § 3.84(d)); and

4. The perimeter fence was not of sufficient height to keep animals and unauthorized persons out since the perimeter fence in sections was less than 8 feet high (9 C.F.R. § 3.127(d)).

XIX

A. On or about August 21, 2012, APHIS inspected respondent's premises and found the following willful violations of section 2.100(a) of the regulations (9 C.F.R. § 2.100(a)) and the standards specified below:

1. The facility was not constructed of such material and of such strength as appropriate for the animals in the facility and was not maintained in good repair to protect the animals from injury and contain the animals (9 C.F.R. § 3.125(a)); and

2. A safe and effective program for the control of insects, ectoparasites, and avian and mammalian pests was not established and maintained (9 C.F.R. § 3.131(e)).

XX

A. On or about February 6, 2013, during public exhibitions, a sufficient distance or barrier was not maintained between the animal and the general viewing public to assure the safety of the animal and viewing public (9 C.F.R. § 2.131(c)(1)).

B. On or about February 6, 2013, APHIS inspected respondent's premises and found the following willful violations of section 2.100(a) of the regulations (9 C.F.R. § 2.100(a)) and the standards specified below:

1. The facility was not constructed of such material and of such strength as appropriate for the animals in the facility and was not maintained in good repair to protect the animals from injury and contain the animals (9 C.F.R. § 3.125(a));

2. Enclosures were not constructed and maintained so as to provide sufficient space to allow each animal to make normal

postural and social adjustments with adequate freedom of movement (9 C.F.R. § 3.128); and

3. Excreta was not removed from primary enclosures as often as necessary to prevent contamination of the animals contained therein and to minimize disease hazards and to reduce odors (9 C.F.R. § 3.131(a)).

XXI

On or about May 11, 2013, during public exhibitions, a sufficient distance or barrier was not maintained between the animal and the general viewing public to assure the safety of the animal and viewing public (9 C.F.R. § 2.131(c)(1)).

XXII

On or about June 5, 2013, APHIS inspected respondent's premises and found the following willful violations of section 2.100(a) of the regulations (9 C.F.R. § 2.100(a)) and the standards specified below:

1. Housing facilities for nonhuman primates were not designed and constructed so that they are structurally sound for the species of nonhuman primates housed in them and were not kept in good repair (9 C.F.R. § 3.75(a));

2. Primary enclosures for nonhuman primates were not designed and constructed of suitable materials so that they were

structurally sound for the species of nonhuman primates contained in them and maintained in good repair (9 C.F.R. § 3.80(a)(1));

3. The facility was not constructed of such material and of such strength as appropriate for the animals involved and was not maintained in good repair to protect the animals from injury and contain the animals (9 C.F.R. § 3.125(a));

4. Sufficient shade by natural or artificial means was not provided when sunlight was likely to cause overheating or discomfort to the animals kept outdoors (9 C.F.R. § 3.127(a)); and

5. A suitable method was not provided to rapidly eliminate excess water from outdoor housing facilities for animals (9 C.F.R. § 3.127 (c)).

WHEREFORE, it is hereby ordered that for the purpose of determining whether the respondent has in fact willfully violated the Act and the regulations and standards issued under the Act, this complaint shall be served upon the respondent. The respondent shall file an answer with the Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250-9200, in accordance with the Rules of Practice governing proceedings under the Act (7 C.F.R. § 1.130 et seq.). Failure to file an answer shall constitute an admission of all the material allegations of this complaint.

The Animal and Plant Health Inspection Service requests:

1. That unless the respondent fails to file an answer within the time allowed therefor, or files an answer admitting all the material allegations of this complaint, this proceeding be set for oral hearing in conformity with the Rules of Practice governing proceedings under the Act; and


2. That such order or orders be issued as are authorized by the Act and warranted under the circumstances, including an order:

(a) Requiring the respondent to cease and desist from violating the Act and the regulations and standards issued thereunder;

(b) Assessing civil penalties against the respondent in accordance with section 19 of the Act (7 U.S.C. § 2149); and

(c) Permanently revoking the respondent's license under the Act.

Done at Washington, D.C.
this 4th day of Nov., 2013



Administrator
Animal and Plant Health
Inspection Service

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